

**FLATHEAD COUNTY BOARD OF ADJUSTMENT**  
**MINUTES OF THE MEETING**  
**JUNE 7, 2016**

<b>CALL TO ORDER</b> <i>6:00 pm</i>	A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1 <sup>st</sup> Ave W, Kalispell, Montana. Board members present were Cal Dyck, Mark Hash, Ole Netteberg and Roger Noble. Gina Klempel had an excused absence. Mark Mussman, Erik Mack, and Kari Nielsen represented the Flathead County Planning & Zoning Office.  There were 7 people in the audience.
<b>APPROVAL OF MINUTES</b> <i>6:00 pm</i>	Noble motioned and Dyck seconded to approve the May 3, 2016 minutes as provided in the meeting packet.  The motion passed unanimously.
<b>ELECTION OF OFFICERS</b> <i>6:03 pm</i>	Noble motioned and Netteberg seconded to nominate Hash for Chair.  Motioned passed unanimously.  Noble motioned and Netteberg seconded to nominate Dyck for Vice-Chair.  Motioned passed unanimously.
<b>PUBLIC COMMENT</b> <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> <i>6:04 pm</i>	None
<b>FCU-15-02 DIRK &amp; SYLVIA MEYER</b> <i>6:04 pm</i>	A request from Dirk & Sylvia Meyer, for a conditional use permit to establish a 'Home Occupation' on property located within the Highway 93 North Zoning District and zoned R-2 (One Family Limited Residential). The subject property is located at 418 Antelope Trail north of Kalispell and contains approximately 1 acre.
<b>STAFF REPORT</b> <i>6:04 PM</i>	Mack reviewed Staff Report FCU-15-02 for the Board.
<b>BOARD QUESTIONS</b>	None

**6:08 PM**

**APPLICANT  
PRESENTATION  
6:08 pm**

Dirk Meyer-418 Antelope Trail, Whitefish stated in answer to the disposal of hazardous waste all oil is collected in fifty-five (55) gallon drums and recycled through a local company. Antifreeze is run through a filtration system and re-used in the vehicle it came out of.

Meyer stated that he had purchased a gate to go around the outdoor lift. He stated that it was a light lift and did not generate a lot of noise.

Meyer's questioned the statement on page seventeen (17) of the staff report that states "The applicant only employs himself." He stated that his son would also be working at the shop.

Meyer addressed Summary of Findings (4). He stated that it would be difficult for a tow truck to maneuver if he had to reduce the driveway to twenty-two (22) feet.

Meyer stated that the reason for this application was to provide a public service in a non-congested area.

**BOARD  
QUESTIONS  
6:18 pm**

None

**PUBLIC  
COMMENT  
6:18 PM**

None

**STAFF  
REBUTTAL  
6:18 PM**

Mack stated there would not be an issue if Meyer had his son work for him, as the conditional use permit states one (1) or more employees not living on the property.

Mack stated the applicant would need a zone variance on the driveway as the regulations state that no driveway in the front yard setback shall be wider than 22 feet.

Hash asked if there would be an issue with joint ownership of the business.

Mack stated no.

**APPLICANT  
REBUTTAL  
6:19 pm**

None

**BOARD  
DISCUSSION  
6:20 PM**

Noble asked about the criterion for hazardous waste.

Mack stated that he knew of another home automotive business that was approved.

Netteberg asked how long the business had been running.

Meyer stated it was not a business at this time. He stated that he just did work on friends and families cars but wanted to expand to include the public.

Netteberg ask about septic and water.

Meyer stated they used the residence.

Hash asked about noise and if the applicant would have a problem with a condition stating that the noise would not create a nuisance for the neighbors.

Meyer stated that he would not have a problem with that.

The Board discussed keeping the property neat and orderly at length.

Mack stated he thought the Criterion stating "No outdoor storage shall be permitted" should suffice.

Dyck asked how long the applicant had owned property.

Meyer replied since 1999.

Dyck asked about the violations from 2008.

Mack stated that the community decay violation was determined to be no violation as the "junk" vehicles were licensed. Another violation about the shop being on a lot by itself was taken care of through aggregation of the lots.

Noble asked about a schedule for the recycling of waste products.

The board discussed at length the amount and containment of hazardous waste generated by the business.

The Board discussed the findings of fact that needed to be rewritten namely 3, 9, and 16 and adding conditions regarding recycling and storage of byproducts.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FCU-15-02)  
6:54 pm**

Noble made a motion seconded by Netteberg to adopt the Findings-of-Fact as modified. The modifications are noted below.

3. The proposed use *does not appear to have environmental constraints* ~~has the potential to impact the environment~~ because the automobile repair shop will generate by-products for disposal or cause to be dumped any hazardous waste including chemicals and cleaners, ~~other than~~ *typical of* the volume and types that would be normally generated by a typical single-family home.
9. The proposed method of storm water management ~~does not~~ *appears* adequate because the use would require re-review and permitting by the Flathead City-County Health Department and the Department of Environmental Quality and the application does not adequately address disposal of industrial and hazardous wastes associated with the home occupation.
16. The proposed use ~~does not~~ *appears* to substantially comply with the

'home occupation' performance standards of Section 5.06.020 FCZR because even though the applicant submitted a signed affidavit stating the criteria would be met the application states by-products would be generated that would need to be removed. ~~and staff was unable to determine if the noise and vibrations would be contained within the accessory building as there is an existing vehicle lift on the exterior of the existing shop.~~

**BOARD  
DISCUSSION  
6:55 pm**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FCU-15-02)  
6:55 PM**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO APPROVE  
6:55 pm**

Netteberg made a motion seconded by Dyck to accept Staff Report FCU-15-02 as Findings-of-Fact and Approve the Conditional Use Permit with the addition of two more conditions. The additional conditions follow.

- 17. The applicant shall provide staff with a management plan to include the name and schedule of recycling service of waste oil.*
- 18. The storage area will have a secondary containment structure to prevent spillage and shall be stored inside.*

**BOARD  
DISCUSSION**

None

**ROLL CALL TO  
APPROVE  
6:57 PM**

On a roll call vote the motion passed unanimously.

**KIRK & AMY  
ERICKSEN  
(FCU 16-08)  
6:58 pm**

A request from Kirk & Amy Ericksen, for a conditional use permit to establish a 'Recreational Facility, Low Impact' and 'Caretaker's Facility' on property located within the Tally/Bissell Zoning District and zoned SAG-10 (Suburban Agricultural). The subject property is located at 561 Twin Bridges Road west of Whitefish MT and contains approximately 20 acres. The applicants are proposing to use the low impact recreational facility as a wedding venue.

**STAFF REPORT  
7:00 pm**

Nielsen reviewed Staff Report FCU-16-08 for the Board.

**BOARD  
QUESTIONS**  
*7:07 pm*

None.

**APPLICANT  
PRESENTATION**  
*7:07 pm*

Amy Erickson-555 Twin Bridges Rd, Whitefish stated she purchased the property last year and added an equestrian center. She stated that during this process she had been asked by several people to host weddings. Erickson stated that most weddings would be held in the summer and she would limit the guest to fifty (50). Erickson also stated that most of the parking would be behind the indoor arena.

**BOARD  
QUESTIONS**  
*7:10 pm*

None

**PUBLIC  
COMMENT**  
*7:11 pm*

Jerry Laird-315 W Bowman Dr., Kalispell stated he owns the property across and directly east of the applicant. They purchased the property because it was zoned agricultural and they expected it to be used for agricultural purposes. He stated that this application implied parties, traffic, and noise and felt it would interfere with the tranquility of the place.

Darlene Laird-315 Bowman Dr., Kalispell stated that the area they were planning on building would be directly across from the applicants proposed parking lot. She felt that the traffic would basically be right in her back yard.

**STAFF  
REBUTTAL**  
*7:14 pm*

None

**APPLICANT  
REBUTTAL**  
*7:14 pm*

None

**BOARD  
DISCUSSION**  
*7:14 pm*

Hash asked the applicant how to address the concerns of the neighbors about the noise.

Netteberg asked where the weddings were going to happen.

Erickson showed him on the plans where the weddings would take place. She stated that the horse shows bring in hundreds of people and the weddings would be a lot smaller. They currently have a band at every horse show and they set up to play into the trees at the back of the property. This is also where the weddings would take place.

The Board discussed at length the amount of people, the noise, the parking, and the hours of operation for the wedding venue.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FCU-16-08)  
7:44 pm**

Dyck made a motion seconded by Netteberg to adopt the Findings-of-Fact as written.

**BOARD  
DISCUSSION  
7:45 pm**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FCU-16-08)  
7:45 pm**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION  
7:47 pm**

None

**MAIN MOTION  
TO APPROVE  
(FCU 16-08)  
7:50 pm**

Netteberg made a motion seconded by Dyck to adopt Staff Report FCU-16-08 as Findings-of-Fact and Approve the Conditional Use Permit with the following changes, Condition 6 should read:

6. All vehicular access for the 'recreational facility, low impact' including internal traffic circulation areas, and parking areas shall *adjacent to the arena on the western portion of the property and* be clearly established and demarcated through the use of materials appropriate for events in a rural setting in compliance with all applicable provisions of Chapter VI and Appendix A of the Flathead County Zoning Regulations.

and the addition of Condition 17:

*17. Hours of operation shall be limited to 9pm for noise and 10pm for guest activity. All guests shall leave the establishment by 10pm.*

**BOARD  
DISCUSSION  
7:51 pm**

None

**ROLL CALL TO  
APPROVE  
(FCU-16-08)  
7:51 pm**

On a roll call vote the motion passed unanimously.

**NEW BUSINESS  
7:51 pm**

None

**OLD BUSINESS  
7:52 pm**

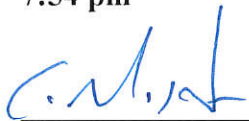
Noble stated he would have to recuse himself on the Carolyn Dewey file FCU-16-05 on July 5, 2016.

Hash stated that he wanted to notify the applicant prior to the hearing when there would only be three (3) Board members present to let them know what the restrictions would be and giving them the option of postponing to the following meeting.

Hash also wanted clarification from the County Attorney on conflicts of interest that arise, and whether another board member should be appointed specifically for those situations.

**ADJOURNMENT  
7:54 pm**

Netteberg made a motion to adjourn the meeting.



C. Mark Hash, Chairman



Danene Thornton, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 7/16*